

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ADVANCE TRUST & LIFE ESCROW SERVICES, LTA, AS NOMINEE OF LIFE PARTNERS POSITION HOLDER TRUST, and JAMES KENNEY, on behalf of themselves and all others similarly situated,	)	Case No. 1:18-cv-03444 (PAC)
Plaintiffs,	)	<b>DECLARATION OF JAMES ROUSE IN FURTHER SUPPORT OF PLAINTIFFS' MOTION TO COMPEL MILLIMAN, INC. TO PRODUCE ACTUARIAL SOFTWARE AND MODELS</b>
v.	)	
PHL VARIABLE INSURANCE COMPANY,	)	
Defendant.	)	[REDACTED]
	)	

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I, James Rouse, hereby declare as follows:

1. I have been retained by Plaintiffs in the above-captioned action to consult on issues pertaining to this matter. I have personal knowledge of the facts set forth herein, and if called as a witness, would testify competently thereto.
2. On August 7, 2019, I made a declaration in support of Plaintiffs' motion to compel third-party actuarial consultant Milliman, Inc. ("Milliman") to produce actuarial software and models.
3. On August 20, 2019, Mr. Timothy Deitz provided a declaration in support of Milliman's opposition to Plaintiff's motion to compel.
4. I have reviewed Mr. Deitz's declaration which contains numerous misstatements—including with regard to the training I received in the *AXA COI* matter (which I have already accurately described in my prior declaration). Below, however, I address only the problems with the assertions in Paragraph 38 of his Declaration which reads as follows:

In paragraphs 27 and 28, Mr. Rouse says it would take "thousands of hours" to put the formulas used into Microsoft Excel. That assertion is absurd. Sophisticated experts like Mr. Rouse and Mr. Bieluch can put those formulas into Microsoft Excel or another program in a much shorter period of time, likely 40

hours or less. The underlying data can then be imported directly. There will be no concerns about “which values to export” because the inputs will be digitally transferred. In fact, if Mr. Rouse wants to export the inputs himself to Microsoft Excel, he can easily do so from within MG-ALFA. The formulas themselves are also exportable from MG-ALFA, but Milliman is offering to extract them and to provide them.

## Translating MG-ALFA To Excel

5.

The image consists of a vertical stack of eleven horizontal black bars. The bars are evenly spaced and decrease in length from top to bottom. The top bar is the longest, and the bottom bar is the shortest. All bars have a uniform thickness and are set against a white background.

6. But, as Mr. Deitz himself acknowledges, it is not enough to export the inputs. Rather, one also needs to export—and export to Excel—the formulas, then link those formulas to the correct inputs, and then test the model to ensure that the outputs are the same. This task is far more complicated.

7.

**ANSWER**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. Mr. Deitz states in his Declaration that “Milliman is offering to extract [the formulas] and to provide them.” This does not alleviate my concerns or change my opinion. I find it notable that Mr. Deitz does not specify the format of the extract, the size of the file, the number of formulas, or the programming language of the formulas. I also note that Milliman has not provided any examples of such an extraction. Absent additional information, I can only assume that Milliman intends to provide an extraction of the MG-ALFA formulas in their existing, proprietary format. Analyzing, translating, and testing these formulas will therefore require all the same work (i.e., thousands of hours) that I describe above if I had done the extraction myself. Further, in the event of any discrepancy between the results of the constructed Excel model and the original MG-ALFA model, the reconciliation process is likely to be hugely time-consuming.

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[REDACTED]

9. Mr. Dietz's declaration likewise does not reflect any offer by Milliman to provide the MG-ALFA formulas in an Excel-readable format. Even if Milliman were planning to itself perform the highly-burdensome task of extracting, translating, and providing Excel-compatible formulas, then that would not obviate extensive testing to confirm the accuracy of the formulas, and errors in the translations provided by Milliman may only be discoverable after submission of expert reports. In sum, even if this were being offered by Milliman—and I do not believe it is—it would still not be a reasonable substitute for having use of the actuarial model through which the COI increase was actually determined. Further, it will only complicate the expert work to be performed in this action, particularly given that one side will be forced to work from a “derived from” Excel model, and the other side will (presumably) have the original MG-ALFA source files.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 10th day of September, 2019, at London, United Kingdom.

James Rouse  
James Rouse

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served on all parties through their counsel of record via the Court's CM/ECF system, on September 10, 2019.

/s/ *Seth Ard*  
Seth Ard